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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,108	09/29/2003	Thomas R. Goecke	29006-2	2438

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EXAMINER

AHMAD, NASSER

ART UNIT PAPER NUMBER

1772

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/674,108	Applicant(s) GOECKE, THOMAS R.	
	Examiner Nasser Ahmad	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. At first, examiner , apologizes for the inconvenience caused by the inadvertent typographical error whereby claim 7 was leftout from the rejection of the claims in the last Office Action and should have been included as claims 1-7 and 9-12 as shown by the claims rejected in the cover sheet of said Action. Applicant was correct to assume that the claim 7 would have been obvious over the prior art of Maurer. However, in view of the amendment filed on January 12, 2006 which changed the scope of the claimed invention, new grounds of rejections have been made hereinbelow and the Office Action made FINAL as necessitated by the amendment.

Rejections Withdrawn

2. Claims 1- 6, 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurer (5839977) made in the last Office Action of 10/18/2005 has been withdrawn in view of the amendment filed on 01/12/2006.

Response to Arguments

3. Applicant's arguments with respect to claims 1-6 and 9-12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1- 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurer (5839977).

Maurer relates to an adhesive tape appliqué (abstract) comprising a polymer layer (54) having a durometer Shore A hardness of between 75 and 95 (col. 10, lines 6-10) and a thickness of 0.08 to 0.14 inches (col. 12, lines 10-14), and a layer of adhesive is attached to the polymer layer. The tape polymer layer can have textures surface, such as stepped as shown in figure-14 and the thickness of said layer varies between 0.008 and 0.048 inches (col. 12, line 66 to col. 13, line 3). The polymer layer (54) has a substantial uniform thickness as shown in figure- 7 because the protrusions (62) is formed on the surface (56) in most of the embodiment of the tape (col. 9, lines 44-47) and hence, it is interpreted by the examiner that some embodiments will have a substantially uniform layer without said protrusions. However, Maurer fails to teach that the hardness ranges between 92 and 100 and that the thickness is between 0.020 and 0.065 inches. It would have been obvious to one having ordinary skill in the art to modify Maurer by providing the polymer hardness to range between 92 and 100 because Maurer teaches a hardness of 95 which is in the claimed range of 92-100, and also the thickness of 0.048 inches is in the claimed range of 0.020 and 0.065 inches.

The tape is attached to a substrate(18) by the outermost side of the adhesive. The polymer layer is polyvinyl chloride (PVC) (col. 12, lines 10-11). The polymer can include colors (col. 9, lines 17-18) and PVC is known in the art to be clear. The adhesive is a double-sided adhesive tape as it adheres to the polymer layer on one side and the

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substrate on the opposite side. Further, the adhesive is protected by a release liner (col. 12, lines 14-17).

As for the adhesive thickness being 65-69 mils, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Maurer's adhesive to have a thickness of 65-69 mils, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. In this case, in the absence of any showing of criticality by the applicant, it would have been obvious to modify Maurer's adhesive to have the claimed thickness of 65-69 mils for optimizing structure of the tape.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guenther (6461715).

Guenther relates to an adhesive tape comprising a polymer layer (11) having a thickness of 50-500 microns (col. 7, lines 19-25) and a first side of the polymer layer has a double-sided adhesive layer (12) because it has two sides of adhesive surface. As shown in figure-2, one side of the adhesive layer is in substantially continuous contact with the first side of the polymer layer. The adhesive tape can be a pressure sensitive adhesive tape, including rubber-based adhesive (col. 8, lines 36-40). The tape has a peel adhesion of at least 3.5 N/cm (col. 8, lines 10-16), which would include the claimed peel adhesion of greater than 2.0 lb/in width. However, Guenther fails to that the thickness is between 0.020 and 0.065 inches. It would have been obvious to one having

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ordinary skill in the art to modify Maurer by providing the polymer layer to have the thickness of between 0.020 and 0.065 inches because the recited thickness of 500 microns is in the claimed range of 0.020 and 0.065 inches.

The intended use phrases such as "for application", "to adhere", etc. have not been given any patentable weight because said phrases are not found to be of positive limitations

7. Claims 7,10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurer in view of Guenther

Maurer, as discussed above, fails to teach that the adhesive is a rubberized double-sided tape. Guenther, also discussed above, relates to a double-sided pressure sensitive adhesive (PSA). Therefore, it would have been obvious to one having ordinary skill in the art to utilize Guenther's teaching of using a double-sided rubberized pressure sensitive adhesive tape in the invention of Maurer with the motivation to provide for enhancing its peel adhesion characteristics.

Response to Arguments

8. Applicant's arguments filed January 12, 2006 have been fully considered but they are not persuasive.

Applicant argues that Maurer's tape has stepped configuration and does not teach a substantially uniform thickness as recited in the amended claim 1. this is not deemed to be convincing because, Maurer teaches that most of the embodiments shows that the

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tape has protrusion (col. 9, lines 44-47), this is interpreted by the examiner as there are embodiments that do not have the protrusions, such as the textured tape of figure-10.

As for the thickness of 0.020 to 0.065 inches, Maurer clearly teaches that the thickness can vary between 0.008 and 0.048 inches which is inclusive of the lower claimed limit of thickness.

In response to applicant's argument that the thickness of 0.048 inches of Maurer is that of a stepped tape, applicant is informed that each section of said stepped tape is taken to be uniform in thickness. Further, in the absence of any definition as to what is defined by "substantially", said stepped thickness of Maurer is taken to be of substantially uniform thickness.

Regarding claim 7, the above rejection of Maurer in view of Guenther shows that it is well known in the adhesive art to have pressure sensitive tape that are rubberized.

Similarly, use of pressure sensitive adhesive for an adhesive tape is also well known in the adhesive art.

For claim 11, applicant is informed that the claimed thickness range is found to be obvious optimization, absent any showing of criticality, of adhesivability, by which it means that the tape would have structure and strength. It is also noted by the examiner that the specification, page 3, that the tape can have a variety of thicknesses and, in page 4, that the tape may have a thickness of 0.020 to 0.065 inches. These recitations clearly teaches that the tape thickness is based on optimization for tape structure and strength.

As amended, claim 12 is found to be obvious over Guenther as discussed above.

Thus, in the absence of any evidence to the contrary, it remains the examiner's position that the claimed invention is obvious over the prior art of record discussed above.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

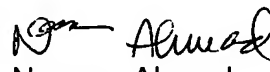
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 3/19/06
Nasser Ahmad
Primary Examiner
Art Unit 1772

N. Ahmad.
March 19, 2006.